



REPORT TO THE PLANNING COMMISSION

AGENDA ITEM NO. **VIII-C**
COMMISSION MEETING 11-17-10

November 17, 2010

FROM: JERRY D. BISHOP, Assistant Director 
Development and Resource Management Department

THROUGH: MIKE SANCHEZ, Planning Manager 
Development Services Division

BY: MCKENCIE CONTRERAS, Planner III 
Development Services Division

APPROVED BY


DEPARTMENT DIRECTOR

SUBJECT: CONSIDERATION OF CONDITIONAL USE PERMIT APPLICATION NO. C-10-212
AND ENVIRONMENTAL FINDING FOR ENVIRONMENTAL ASSESSMENT NO.
C-10-212

RECOMMENDATION

Staff recommends that the Planning Commission take the following actions:

1. APPROVE the finding of a Categorical Exemption for Environmental Assessment No. C-10-212 issued November 2, 2010.
2. APPROVE Conditional Use Permit Application No. C-10-212 to establish "Club Rome," a nightclub with dancing and a State of California Alcoholic Beverage Control Type 48 license (*bar/nightclub – sale of beer and wine for consumption on the licensed premises where sold*) for the establishment, subject to the following conditions:
 - a. Development shall comply with Exhibits A and F dated October 19, 2010.
 - b. Development shall comply with the operational statement for the project dated October 18, 2010.
 - c. Development shall comply with the Conditions of Approval dated November 17, 2010.

EXECUTIVE SUMMARY

The applicant, Joseph Borelli, filed Conditional Use Permit Application No. C-10-212 requesting authorization to establish "Club Rome," a nightclub with dancing and a State of California Alcoholic Beverage Control Type 48 license (*bar/nightclub – sale of beer and wine for consumption on the licensed premises where sold*) for the establishment.

The project is located within the Granite Park Development located on the east side of North Cedar Avenue between East Dakota and East Ashlan Avenues. The site is zoned C-R/cz (*Commercial Recreation/conditions of zoning*).

The project is being processed under the provisions of the recently adopted text amendment as related to restaurants, taverns and nightclubs. Pursuant to that text amendment, this project has been scheduled for review by the Fresno City Planning Commission.

Staff recommends that the Planning Commission approve Conditional Use Permit Application No. C-10-212, subject to the conditions of approval noted above. The conditional use permit is appropriate for the site and all findings required by Fresno Municipal Code (FMC) Section 12-405-A-2 can be

made. In addition, granting of the requested special permit would not result in a significant impact under the California Environmental Quality Act (CEQA).

PROJECT INFORMATION

PROJECT	Conditional Use Permit Application No. C-10-212 requests authorization to establish "Club Rome," a nightclub with dancing and a State of California Alcoholic Beverage Control Type 48 license (<i>bar/nightclub – sale of beer and wine for consumption on the licensed premises where sold</i>) for the establishment.		
APPLICANT	Joseph Borelli		
LOCATION	3950 North Cedar Avenue, Suite 101; Located within the Granite Park Development on the east side of North Cedar Avenue between East Dakota and East Ashlan Avenues (APN: 438-021-65). (Council District 4, Councilmember Westerlund)		
SITE SIZE	± 11,000 square foot nightclub with a ± 3,500 square foot outdoor enclosed patio		
LAND USE	Existing	-	Commercial/Commercial Recreational
ZONING	Existing	-	C-R/cz (<i>Commercial Recreation/conditions of zoning</i>) zone district
PLAN DESIGNATION AND CONSISTENCY	The request to establish a nightclub under the nightclub designation is consistent with both the existing C-R zone district and the commercial/commercial recreational planned land use designation of the 2025 General Plan and the McLane Community Plan.		
ENVIRONMENTAL FINDING	Categorical Exemption, dated November 2, 2010		
PLAN COMMITTEE RECOMMENDATION	The District 4 Plan Implementation Committee will review the subject application at their meeting on Monday, November 8, 2010.		
STAFF RECOMMENDATION	Approve Conditional Use Permit Application No. C-10-212		

BORDERING PROPERTY INFORMATION

	Planned Land Use	Existing Zoning	Existing Land Use
North	Commercial/ Commercial Recreational	C-R/cz <i>Commercial Recreation/conditions of zoning</i>	Vacant Land within Granite Park Development
South	Commercial/ Commercial Recreational	C-R/cz <i>Commercial Recreation/conditions of zoning</i>	Vacant Land within Granite Park Development

East	Commercial/ Commercial Recreational	C-R/cz <i>Commercial Recreation/conditions of zoning</i>	Vacant Land within Granite Park Development
West	Commercial/ Commercial Recreational	C-R/cz <i>Commercial Recreation/conditions of zoning</i>	Restaurants within Granite Park Development

ENVIRONMENTAL FINDING

Conditional Use Permit Application No. C-10-212 requests authorization to establish a nightclub within the Granite Park Development. This project is not expected to have an adverse impact on the environment and is categorically exempt pursuant to the CEQA, Sections 15301/Class 1 and 15332/Class 32.

BACKGROUND / ANALYSIS

The applicant, Joseph Borelli, filed Conditional Use Permit Application No. C-10-212 requesting authorization to establish "Club Rome," a nightclub with dancing and a State of California Alcoholic Beverage Control Type 48 license (*bar/nightclub – sale of beer and wine for consumption on the licensed premises where sold*) for the establishment.

The project is located within the Granite Park Development on the east side of North Cedar Avenue between East Dakota and East Ashlan Avenues. The site is zoned C-R/cz (*Commercial Recreation/conditions of zoning*).

The project is being processed under the provisions of the recently adopted text amendment as related to restaurants, taverns and nightclubs. Pursuant to that text amendment, a nightclub proposed within the C-R zone district is required to be considered by the Fresno City Planning Commission. Therefore, staff has scheduled this matter for consideration by the Planning Commission and noticed the surrounding property owners of this hearing.

A nightclub as defined under the recently adopted text amendment is required to close no later than 2:00 a.m. The applicant is requesting that the business be approved as a "nightclub" as defined in the text amendment, in order to allow dancing and a closing time of 2:00 a.m.

A nightclub is defined as a facility that provides a dance floor and live or recorded music for customer dancing, and may or may not provide entertainment, such as live performances of the arts (music, comedy, readings, dance, plays, etc.). A nightclub differs from either a restaurant or tavern in that dancing by the customer is permitted. The serving of food or alcoholic beverages is optional.

Based on the applicant's operational statement, the nightclub will operate between 8:00 p.m. and 2:00 a.m. Wednesday through Saturday and Sunday through Tuesday will be reserved for concerts, banquets and special events. Appetizer food will be served from opening until closing.

The appropriateness of the proposed project has been examined with respect to its consistency with the goals and policies of the 2025 Fresno General Plan and the McLane Community Plan; its compatibility with surrounding existing or proposed uses; and, its avoidance or mitigation of potentially significant adverse environmental impacts. Conditional Use Permit Application No. C-10-212 will comply with all applicable codes, including parking, landscaping, walls, etc.

DISTRICT 4 PLAN IMPLEMENTATION COMMITTEE

The District 4 Plan Implementation Committee will review the subject application at their meeting on November 8, 2010. Any recommendations from the committee will be given to the Planning Commission.

NOTICE OF PLANNING COMMISSION MEETING

The Development and Resource Management Department mailed notices of this Planning Commission hearing to all surrounding property owners within 500 feet of the Granite Park Development, pursuant to Section 12-326-G-2 of the FMC. No comments or correspondence has been received to date.

CONDITIONS OF APPROVAL

Standard conditions of approval for restaurants, taverns and nightclubs were developed after the adoption of the text amendment to ensure uniform application of requirements on a citywide basis. Those conditions are included and shall be applied to Conditional Use Permit Application No. C-09-212. These conditions address a myriad of issues related to the operation of alcohol-related uses, including employee education, security, video surveillance, and enforcement procedures. The applicant must show compliance with all conditions prior to commencing the new nightclub operations.

FINDINGS

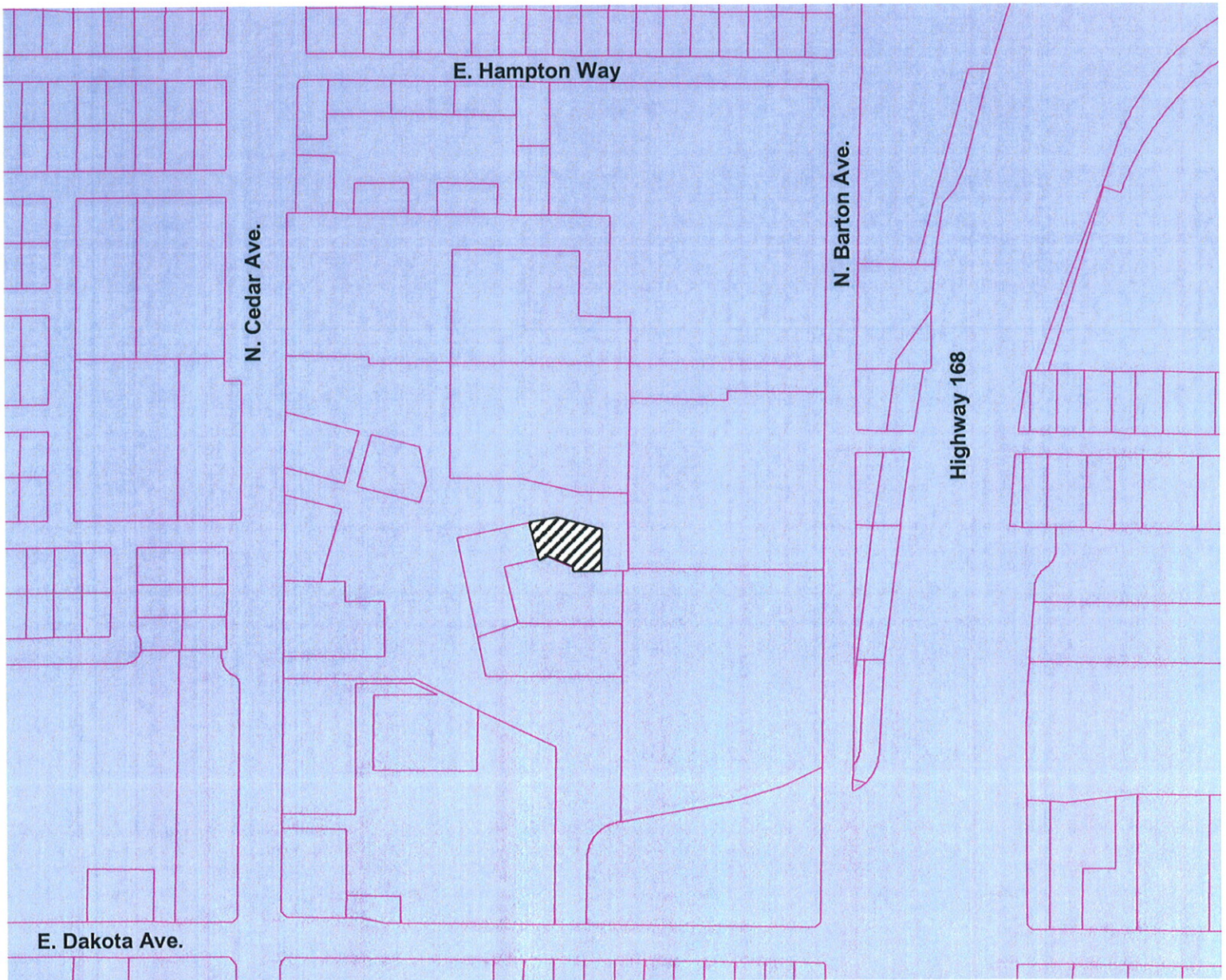
No special permit may be issued unless it is found that the privilege exercised under the permit, conforms to the findings of 12-405-A-2 of the FMC. Based upon analysis of the conditional use permit application, staff concludes that all of the required findings can be made for Conditional Use Permit Application No. C-10-212.

Findings per Fresno Municipal Code Section 12-405-A-2	
a. <i>All applicable provisions of this Code are complied with and the site of the proposed use is adequate in size and shape to accommodate said use, and accommodate all yards, spaces, walls and fences, parking, loading, recycling areas, landscaping, and other required features; and,</i>	
Finding a:	Conditional Use Permit Application No. C-10-212 will comply with all applicable codes, including parking, landscaping, walls, etc., as there is no new development proposed with this project.
b. <i>The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use; and,</i>	
Finding b:	Adjacent streets were assessed during the initial development of the subject site to ensure that the development would have less than significant impacts on traffic and the surrounding community.
c. <i>The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located. The third finding shall not apply to uses which are subject to the provision of Section 12-306-N-30 of the FMC.</i>	

Finding c:	The proposed nightclub will not have a negative impact on either the subject site, or neighboring properties given that there are no residential uses in the immediate abutting the nightclub. Furthermore, the subject site was intended to function with commercial recreational uses, such as the proposed nightclub. In addition, the applicant will be required to comply with the operational statement submitted for the project and the conditions of approval as required by the Police Department that will stipulate certain requirements that must be met by the applicant. These conditions are intended to help protect the public health, safety and welfare of patrons and neighbors, alike.
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Attachments: Vicinity Map
2008 Aerial Photograph of site
Noticing Map (500 foot radius)
Exhibit A, Site Plan, dated October 19, 2010
Exhibit F, Floor Plan, dated October 19, 2010
Operational Statement dated October 18, 2010
Conditions of Approval dated November 17, 2010
Environmental Assessment No. C-10-212 dated November 2, 2010

Vicinity Map



Subject Property

VICINITY MAP

DEVELOPMENT AND RESOURCE MANAGEMENT DEPARTMENT

Conditional Use Permit Application
No. C-10-212

PROPERTY ADDRESS

3950 North Cedar Avenue, Suite 101

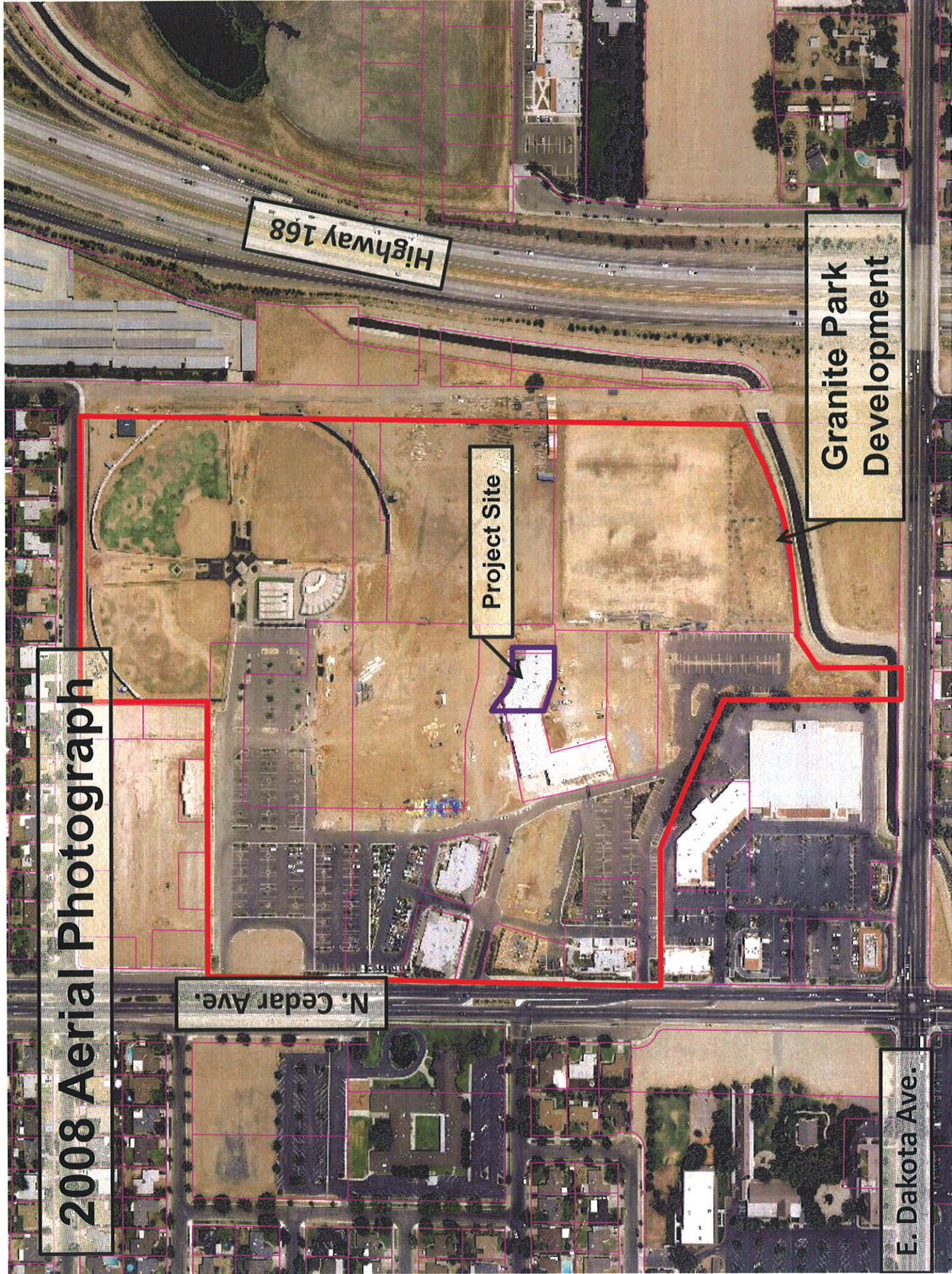


APN: 438-021-65

Zone District: C-R/cz (*Commercial
Recreation/conditions of zoning*).

By: M. Contreras, November 2, 2010

2008 Aerial Photograph of Site



Highway 168

Granite Park
Development

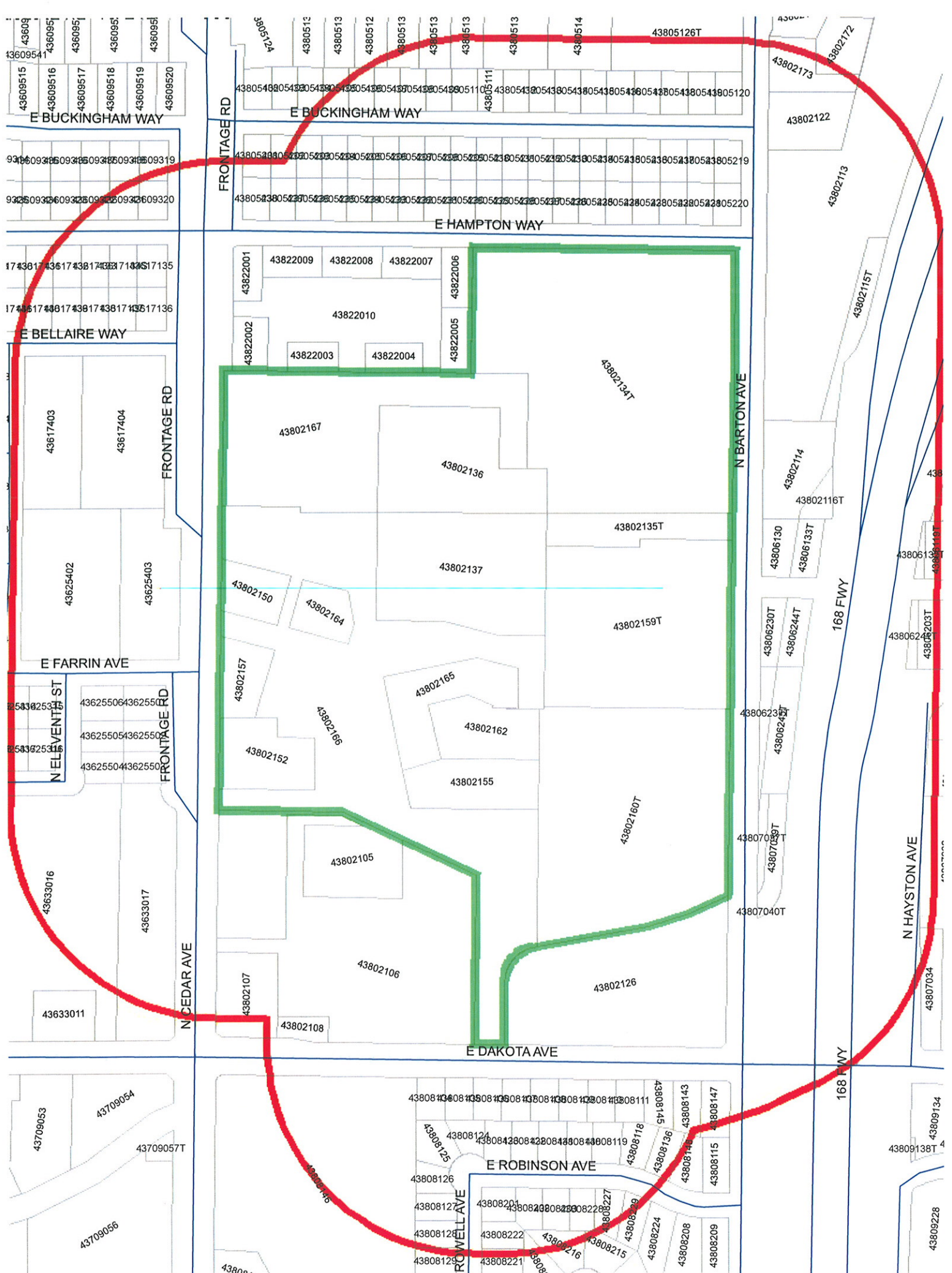
Project Site

2008 Aerial Photograph

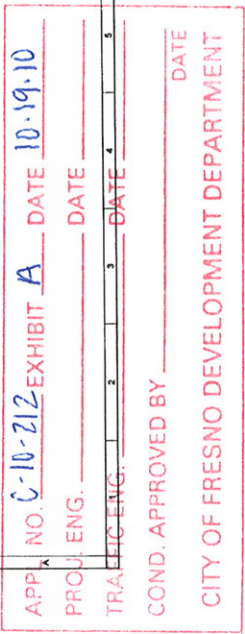
N. Cedar Ave.

E. Dakota Ave.

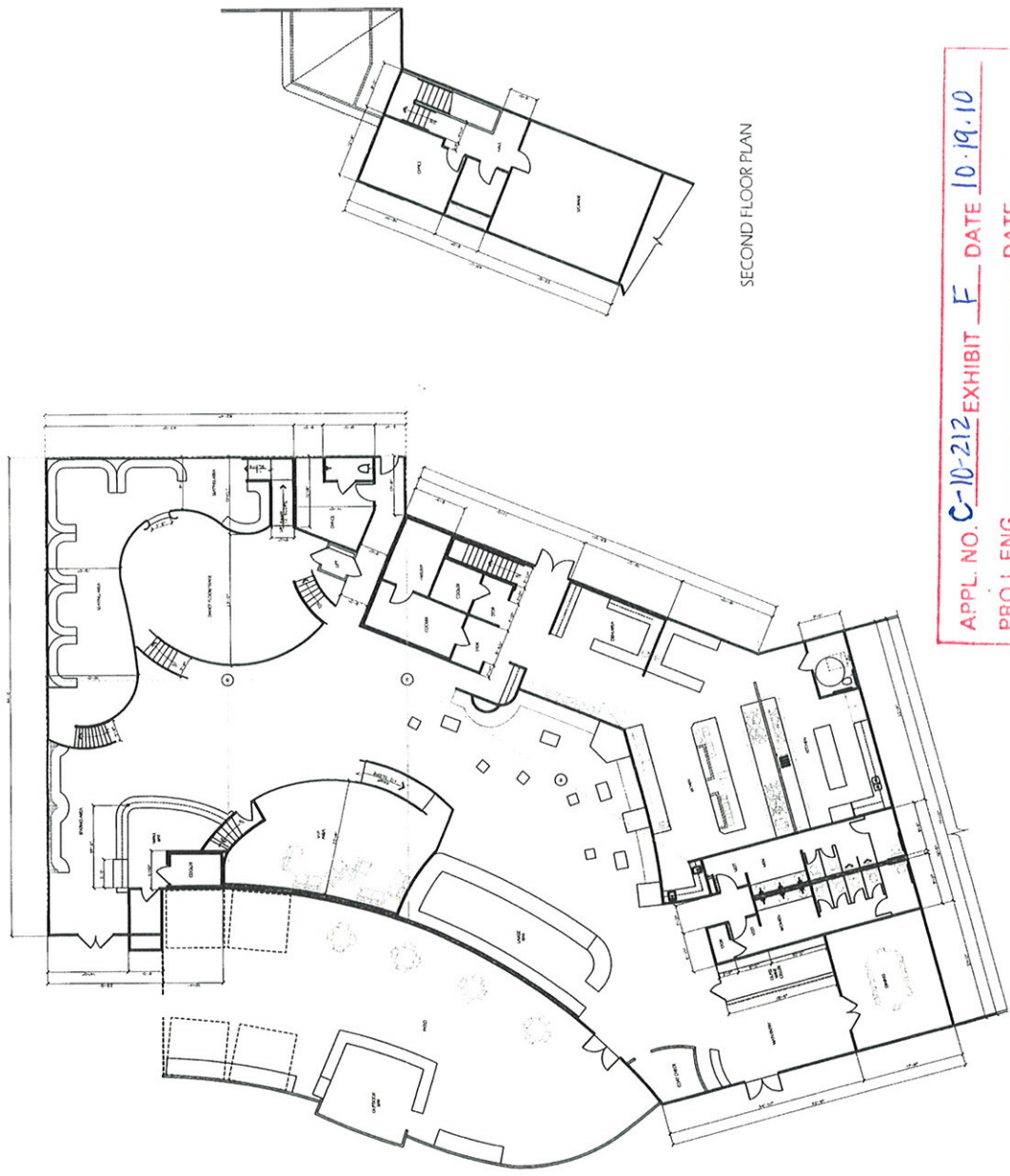
Noticing Map



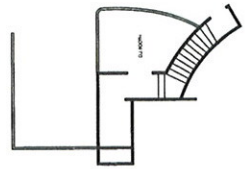
Site Plan



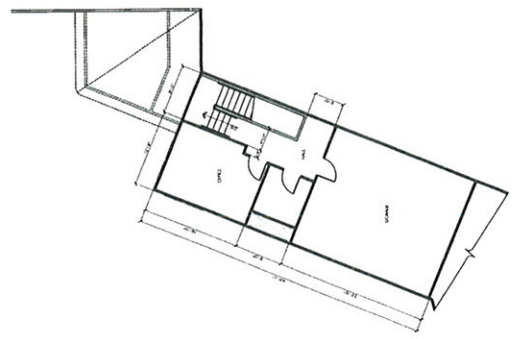
Floor Plan



FLOOR PLAN



DJ. BOOTH PLAN



SECOND FLOOR PLAN

APPL. NO. C-10-212 EXHIBIT F DATE 10-19-10
 PROJ. ENG. _____ DATE _____
 TRAFFIC ENG. _____ DATE _____
 COND. APPROVED BY _____ DATE _____
 CITY OF FRESNO DEVELOPMENT DEPARTMENT

Operational Statement

JANDA'S SKYBOX
dba: Club Rome
3950 N Cedar Ave, Suite 101
Fresno, California 93726

October 18, 2010

Planning and Development Department
2600 Fresno St, Room 3043 (3rd floor, south end)
Fresno, CA 93721-3604

APPL. NO. <u>C-10-212</u>	EXHIBIT <u>0</u>	DATE <u>10-18-10</u>
PROJ. ENG. _____	DATE _____	
TRAFFIC ENG. _____	DATE _____	
COND. APPROVED BY _____	DATE _____	
CITY OF FRESNO DEVELOPMENT DEPARTMENT		

Re: Notice of Intended Operation Application for a
Double Transfer of a Type 47- On Sale General Eating
Place License #452136 and Exchange to Type 48-On
Sale General Public Premises License

Dear Sir or Madam:

This letter is to outline my intended operation at 3950 N Cedar Ave, Suite 101, Fresno, California 93726. My proposed operation is to establish a nightclub offering live entertainment and dancing strictly for adults twenty-one (21) years of age or over. My location will be at the Granite Park development in Fresno which is a commercially zoned complex. The square footage of the building is approximately 11,000 square feet with the interior consisting of two (2) fixed bars, elegant décor, seating areas, dance area, a stage complete with digital lighting and professional sound equipment. There will be one outdoor enclosed patio area of approximately 3500 square feet with a fixed bar available seasonal or as weather permits.

My operation will be the only upscale nightclub establishment of its kind in the City of Fresno. I will employ a total of fifty (50) members of staff. The hours of operation will be primarily be between 8:00 PM and 2:00 AM Wednesday's through Saturdays and Sunday, Monday and Tuesdays will be reserved for concerts, banquets and special events. Most deliveries will occur prior to opening during the morning. I will offer various moderately priced appetizer foods from opening until closing. My focus is create a safe and pleasurable facility for adults that is similar too or exceeds the quality of nightclub entertainment facilities found in larger cities like Los Angeles, San Francisco and Las Vegas.

My management and staff will manage noise levels by ensuring that all doors remain closed during the normal hours of operation. I will provide expert training to my management, all

employees and security staff on Alcoholic Beverage Laws Rules and Regulations, State, County and City laws or regulations by scheduling mandatory Prevention and Education Training Programs to all employees prior to opening and prior to employment of such staff.

Those programs currently available through the State Alcoholic Beverage Control as follows:

- Responsible Beverage Service (RBS) Training Provider Program (certification program for server awareness training programs)
- Licensee Education on Alcohol and Drugs (LEAD) Program (ABC's award winning server awareness training program for licensees)
- Informed Merchants Preventing Alcohol-Related Crimes and Tendencies (IMPACT)
- Retail Operating Standards Task Force (ROSTF)
- Alcohol Issues Partnership Project with CA University Systems for adults or students 21 years and over

I will promote and encourage the usage of designated drivers who do not consume alcoholic beverages and will ensure the availability of affordable public taxi and/or limousine transportation to and from the nightclub.

My facility structure will be properly posted inside and outside as per ABC Rule 106 visibly stating "No Person Under 21 Allowed" at or near each public entrance and posted at a prominent place inside. I will mandate strict security policy with regards to checking proper valid identification, enforcing proper dress code and conduct of the public in addition to ensuring the professionalism of my staff. I propose to employ a minimum of sixteen (16) security staff that will work both inside, outside and throughout the surrounding parking lot areas of the facility. Seven (7) of the sixteen (16) will be uniformed licensed security guards to monitor the exterior and parking lot areas and the remaining nine (9) will wear in-house security or employees with some in plain formal clothes and some with identifiable security shirts. (Refer to Attachment A-Club Rome Security Plan for details)

I will strive to make the business a friendly and safe atmosphere for adults only, and to become a top attraction for the community and attract patrons and entertainers from abroad to the City of Fresno. I will work close with the local community and law enforcement to ensure the successful operation of an upscale adult entertainment facility. I as the operational manager will be available at all times the business is open and operating.

Sincerely,


Joseph Pino Borrelli, General Manager

(559) 349-2200

CLUB ROME SECURITY PLAN

The following is the initial security plan for "Club Rome" located at 3950 N Cedar Ave, Fresno, CA, 93726.

The Security Plan will consist of:

Sixteen (16) staff inside Club Rome

Two (2) at the main entrance performing identification authentication.

Three (3) outside on the patio area

One (1) performing dress code enforcement and bag inspection

Seven (7) private licensed security guards on the premises from the east to the west side and south of the structure with two (2) parking lot attendants to usher vehicles.

Dress Code will be as follows:

- NO HATS OR BENNIE CAPS OF ANY KIND
- NO WHITE OR SOLID COLOR T-SHIRTS
- NO FACIAL TATOOS OR ANY GANG AFFILIATED TATTOOS
- NO PRO SPORT LOGOS OF ANY KIND WITH THE EXCEPETION OF "UNIVERSITY HOME FOOTBALL GAME NIGHTS ONLY"
- NO SWEAT PANTS OR SWEAT SUITS
- NO BAGGY PANTS
- SHIRTS MUST BE TUCKED
- NO TANK TOPES OR SLEEVELESS SHIRTS
- NO HOODED JACKETS OR SWEATSHIRTS ETC.

We will offer a coat check or bag check station and/or allow customers to secure their items inside their vehicles. We will reserve the right to refuse entrance and/or service to anyone.

Conditions of Approval

CITY OF FRESNO
DEVELOPMENT AND RESOURCE MANAGEMENT DEPARTMENT

CONDITIONS OF APPROVAL

NOVEMBER 17, 2010

CONDITIONAL USE PERMIT AMENDMENT

APPLICATION NO. C-10-212

3950 NORTH CEDAR AVENUE, SUITE 101

Conditional Use Permit Amendment Application No. C-10-212 is scheduled to be heard by the Fresno Planning Commission on November 17, 2010. Conditional Use Permit Application No. C-10-212 is subject to the following conditions of approval:

A. General Conditions

1. Development shall take place in accordance with the C-R/cz (*Commercial Recreation/conditions of zoning*) zone district as defined in Section 12-223 of the Fresno Municipal Code (FMC);
2. Development shall take place in accordance with the existing conditions of zoning:
 - a. For any commercial, office, clinic, hospital, or retail trade use proposed for the site, an Acoustical Study shall be prepared to determine if insulation should be added to sensitive occupancy areas.
 - b. For hospitals (including medical clinics) and schools (including day care) located within the 65-70 CNEL as shown on the ALUC's Fresno Air Terminal Land Use Policy Plan (City of Fresno's Airport and Environs Plan Fresno Yosemite International Airport), interior noise levels shall be reduced by 25 dBA.
 - c. No structure, tree, or other object shall be permitted to exceed the height limits established in accordance with Part 77, Subpart C, of the Federal Aviation Regulations (FAR).
 - d. Any day care or hospital/clinic facility, nursing home, or similar uses that may be proposed for the site shall be located outside Safety Zone III, as shown on the ALUC's Fresno Air Terminal Land Use Policy Plan (Airport and Environs Plan Fresno Yosemite International Airport).
 - e. The proposed land uses shall not create distracting light or glare, sources of smoke or electronic interference, or attract birds.
 - f. An Avigation Easement shall be required as described on Page 13 of the ALUC's Fresno Air Terminal Land Use Policy Plan (Section D General Nuisance 1. Avigation Easement and Agreement).
 - g. The applicant shall work with the City of Fresno Airport Department to determine what warning devices can be installed, if any, to alert occupants in the event of an aircraft emergency, and install them if feasible

3. Development shall comply with Sections 12-326 and 12-327 of the FMC related to restaurants, taverns and night clubs;
4. Exercise of the special permit shall comply with Exhibits A (Site Plan) and F (Floor plan), dated October 19, 2010;
5. Exercise of the special permit shall comply with Exhibit O, Operational Statement dated October 18, 2010;
6. Exercise of the special permit shall comply with the Nightclub CUP Conditions dated November 17, 2010;
 - a. Exercise of the special permit shall take place in accordance with all city, county, state and federal laws and regulations, including ABC licensing requirements.
7. Comply with the requirements of the Fresno Police Department.
8. Complete with all requirements of the Building and Safety Division prior to issuance of occupancy. All previous issues related to prior permits shall be satisfied prior to occupancy.
9. The proposed "Club Rome" nightclub shall provide one parking space per 75 square feet of floor area. The proposed nightclub is 14,500 square feet; therefore 194 parking spaces are required. The overall development of Granite Park will need to have a parking management plan, which was a requirement of the original entitlement
10. Submit an evacuation plan.

Environmental Assessment

**CITY OF FRESNO
CATEGORICAL EXEMPTION
ENVIRONMENTAL ASSESSMENT NO. C-10-212**

THE PROJECT DESCRIBED HEREIN IS DETERMINED TO BE CATEGORICALLY
EXEMPT FROM THE PREPARATION OF ENVIRONMENTAL DOCUMENTS
PURSUANT TO ARTICLE 19 OF THE STATE CEQA GUIDELINES.

APPLICANT: Joseph Borelli
3950 North Cedar Avenue
Fresno, California 93726

PROJECT LOCATION: 3950 North Cedar Avenue; Located within the Granite park Development on the east side of North Cedar Avenue between East Dakota and East Ashlan Avenues; APN: 438-021-65

PROJECT DESCRIPTION: Conditional Use Permit Application No. C-10-212, filed by Joseph Borelli, is requesting authorization to establish "Club Rome," a nightclub with dancing and a State of California Alcoholic Beverage Control Type 48 license (*bar/nightclub-sale of beer and wine for consumption on the licensed premises where sold*) for the establishment.

This project is exempt under Sections 15301/Class 1 and 15332/Class 32 of the State of California CEQA Guidelines.

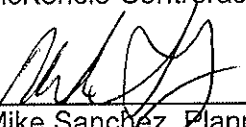
EXPLANATION: Section 15301/Class 1 states the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

Section 15332/Class 32 consists of projects characterized as in-fill development meeting the conditions described in this Section. (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses. (c) The project site has no value, as habitat for endangered, rare or threatened species. (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. (e) The site can be adequately served by all required utilities and public services.

The proposed project consists of a nightclub with dancing until 2 a.m. and is consistent with the 2025 Fresno General Plan and the McLane Community Plan. The operation of a nightclub on the site is allowed within the designated zone district. The site has no value as habitat for endangered, rare or threatened species and complies with the conditions of the Class 1 and Class 32 Categorical Exemptions. No adverse environmental impacts would occur as a result of the proposed project.

Date: November 2, 2010

Prepared By: McKencie Contreras, Planner

Submitted By: 
Mike Sanchez, Planning Manager
City of Fresno
Development and Resource Management Department
(559) 621-8277